Overview

• Introduction to public charge.
• Impacts on young children and early childhood programs.
• The public comment process.
• Q&A

Submit questions in the chat box!
Introduction to Public Charge
What is “public charge”? 

• A provision in immigration law designed to identify individuals who are likely to become dependent on the government as their main source of support.

• A public charge determination is made when an individual is:
  – Seeking to enter the US with a visa or
  – Applying for lawful permanent residence (or a “green card”).

• It is not relevant when an individual applies to become a US citizen.

• It does not apply to certain categories of immigrants, including refugees, asylees, and others.
Current public charge test

• Considers the use of two public benefits:
  – Cash assistance for income maintenance (e.g. TANF, SSI, general assistance)
  – Long-term institutional care at government expense

• Considers “totality of circumstances”
  – Age, Health, Family Status, Financial Status, Education and Skills, Affidavit of Support
DHS Public Charge proposed rule

• On October 10, the Department of Homeland Security published a Notice of Proposed Rulemaking (NPRM) on “public charge”.

• The proposed regulation would:
  – Change the definition of “public charge”.
  – Expand the list of public benefits.
  – Detail new negative factors for the “totality of circumstances” test.
## Proposed change to public charge definition

<table>
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<th>Currently</th>
<th>As Proposed</th>
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<td>A person “likely to become primarily dependent on the government for subsistence”</td>
<td>An immigrant “who receives one or more public benefits”</td>
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Public benefits included in proposed rule

* Cash Support for Income Maintenance
* Long Term Institutional Care at Government Expense
** Most Medicaid Programs
Supplemental Nutrition Assistance Program (SNAP or Food Stamps)
Medicare Part D Low Income Subsidy
Housing Assistance (Public Housing or Section 8 Housing Vouchers and Rental Assistance)

* Included under current policy as well
** Exceptions for emergency Medicaid & certain disability services offered in school. DHS is asking for input on inclusion of CHIP, but the program is not included in the regulatory text
Public benefits **NOT** included

Any benefit not specifically listed in the regulation is **not** included, such as:

- Head Start
- Child care assistance
- WIC
- Early intervention
- CHIP*
- School Breakfast and Lunch
- Public education services, including public pre-K
- Home Visiting
- Energy Assistance (LIHEAP)
- Disaster Relief
- Emergency medical assistance
- Transportation vouchers or services
- Non-cash TANF benefits
- Federal Earned Income Tax Credit and Child Tax Credit
- Student Loans
Children’s use of benefits

• Only an individual’s benefit use would be considered under this proposal.
  – This is different from earlier leaked versions of the proposal.

• The use of benefits by U.S. citizen children will not directly be a factor in a parents’ public charge test.

• For immigrant children, own benefit use counts toward own public charge determination.
Totality of circumstances test: Factors

- Age
- Health
- Family Status
- Income and Financial Status
- Education and Skills
- Affidavit of Support
Totality of circumstances test: Children

• Being a child (under age 18) is a negative factor in his/her own public charge test.

• Children are included in the calculation of household size and may make it more difficult for parents to meet income test.
Totality of Circumstances Test:
Heavily Weighed Factors

- **Heavily Weighed Positive Factors**
  - Individual or Household income 250% of FPL or above

- **Heavily Weighed Negative Factors**
  - Lack of job or prospects
  - Health condition w/o private insurance or $ to pay for care
  - Receipt of public benefits
Example: Jasmine’s Story

**Jasmine** is a 4-year-old U.S. citizen. Her mother is a graduate student from Mexico with DACA since 2012.

- Her mother works as a student instructor and research assistant to pay for school, as she’s ineligible for any federal loans.
- Jasmine’s father is a U.S. citizen and works as a teaching assistant, earning $30,000 per year.
- Jasmine and her father both receive Medicaid. Her mother is not eligible and relies on her school clinic to treat her severe asthma.
- Jasmine’s father petitioned for her mother’s green card 6 months ago.
Jasmine’s mother under the proposed rule

Positive Factor

Age (18-60)

Negative Factors

Income

Health condition w/out private insurance

Household Size
Keep in Mind

• This is a proposal—current guidance on public charge remains in effect.

• The proposal is not retroactive—proposed changes would only apply to benefits received after a date in the future (after a final rule).

• The final regulation could look different from the proposed regulation—or could never be finalized.
Impacts of the Proposed Rule
Harm to Children and Families

• Makes it significantly harder for low-income immigrant parents to obtain long-term stability for their families.
  – When adults are denied green cards, families are destabilized and sometimes separated.

• Increases stress among immigrant parents—risk of poorer health and financial instability.
  – Children’s health and well-being is linked to their parents.
DHS predicts harmful outcomes

“Disenrollment or forgoing enrollment in a public benefits program by aliens otherwise eligible for these programs could lead to

• worse health outcomes, including increased prevalence of obesity and malnutrition, especially for pregnant or breastfeeding women, infants, or children, and reduced prescription adherence;

• increased use of emergency rooms and emergent care as a method of primary health care due to delayed treatment;

• increased prevalence of communicable diseases, including among members of the U.S. citizen population who are not vaccinated;

• increases in uncompensated care in which a treatment or service is not paid for by an insurer or patient;

• increased rates of poverty and housing instability; and

• reduced productivity and educational attainment.”

– Department of Homeland Security, p. 51270 of NPRM
Effects on Early Childhood Programs

• Increases reluctance to use public benefits or early childhood programs—including for children.
  – One estimate puts “chilling effect” at 26 million people, including approximately 9.2 million children.
Keep in Mind

- Nothing in this proposed rule changes immigrant *eligibility* for public benefits or early childhood programs.
Harm to our Country

• Favors wealthy immigrants and blocks others from having a permanent, secure future in US.

• Puts the health and wellbeing of millions at risk—making us a hungrier, poorer, and sicker nation.
The Public Comment Process: Your Opportunity to Speak Out!
Immigration Policy is a Children’s Issue
• Co-chaired by CLASP and the National Immigration Law Center.
  – Over 275 active member organizations in 30 states and growing.

Information & resources at:
protec

CLASP
Policy Solutions That Work For Low-Income People

National Immigration Law Center
Early Childhood Sector Template

• The PIF campaign is using a sector-based strategy to develop model comments.
  – CLASP early childhood sector template will be emailed to you at the conclusion of this webinar.
  – You may receive and use more than one sector template.

• Use the template as a guide to drafting your comments.
  – The template includes prompts to modify and personalize.

• Feel free to distribute the template widely among your network!
Who?

• Everyone!
  – Individuals
  – Organizations
  – Teachers, Program Directors, Family Support Workers
  – Parents

• Submitting public comments to an agency is not considered lobbying under federal law and will not hurt your organization’s Section 501(c)(3) tax exemption.
What?

• A unique comment opposing the proposed rule.
  – Modify the comment template
    • Use your own words
    • Include state/local data
    • Share personal experiences and stories
    • Explain why this matters to YOU and/or YOUR organization.

• You can comment on *any* aspect of the proposal. You do not have to cover *every* aspect of the proposal.
  – It’s more important that your comment is *unique*. 
Where and When?

• All comments should be submitted by December 10.
  – Organizations and programs can submit comments to Regulations.gov.
  – A user-friendly portal for individuals to comment is available at protectingimmigrantfamilies.org
Dos and Don’ts of Commenting

• **DO**
  – Request the rule be withdrawn.
  – Personalize your comments.
  – Submit comments **before** December 10.

• **DON’T**
  – Don’t suggest corrective language.
  – Don’t discuss programs that aren’t mentioned in the NPRM.
  – Don’t sign on to group comments.
Additional Actions

- **EDUCATE** immigrant families to fight the chilling effect
  - Talking points at protectingimmigrantfamilies.org
  - Free, low-cost legal options at immigrationadvocates.org/nonprofit/legaldirectory

- **SPEAK OUT** against the proposed rule
  - Use #ProtectFamilies on social media

- **DOCUMENT** the harm and identify individuals who may be willing to share their story publicly
  - bit.ly/PIFstory
For more information

www.clasp.org
Q&A

Please submit your questions in the chat box.
Thank you!

Thank you for standing up for immigrant children and families.

Contact us with questions or for help with commenting:

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